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10/777,867	02/12/2004	David P. Sperling	100650.53067US	6105
23911 7590 01/27/2009 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300				
EXAMINER				
STACE, BRENT S				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/777,867

**Applicant(s)**

SPERLING ET AL.

**Examiner**

BRENT STACE

**Art Unit**

2161

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8, 10, 11, 13-17, 19, 20, 27 and 35-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 10, 11, 13-17, 19, 20, 27 and 35-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Remarks*

1. This communication is responsive to the amendment filed November 20<sup>th</sup>, 2008. Claims 8, 10, 11, 13-17, 19, 20, 27, and 35-47 are pending. In the amendment filed November 20<sup>th</sup>, 2008, Claims 8, 27, 35, 38, 42, and 46 are amended and Claims 8, 27, and 35 are independent. The examiner acknowledges that no new matter was introduced and the amended and new claims are supported by the specification. This action is made FINAL.

### *Response to Arguments*

2. Applicant's arguments filed November 20<sup>th</sup>, 2008 with respect to Claims 8-20, 27-29, and 34 have been considered but are not persuasive. See below for a detailed response.

3. As to the applicant's arguments with respect to exemplarily Claim 8 (including Claims 27 and 35) for the prior art(s) allegedly not teaching **"wherein the user interface displays a visual representation of records previously stored in the plurality of databases,"** the examiner respectfully disagrees. Langer, pgs. 9-12 was used to reject this and all the claimed limitations below. The iPod and the local computer (running iTunes) are seen as the claimed databases. Records in the databases are seen as the playlists. The iTunes interface displays a visual

representation for playlists/records previously stored in the iPod and iTunes databases (see the playlists under the iPod and playlists under "Source" sidebar.)

4. As to the applicant's arguments with respect to exemplarily Claim 8 (including Claims 27 and 35) for the prior art(s) allegedly not teaching **"a first record previously stored in all of the plurality of databases is displayed on the user interface using a first graphical representation of the first record,"** the examiner disagrees. A first record/playlist previously stored in all the plurality of databases (iTunes and iPod) is shown in Fig. 32. The figure displays the playlist (e.g. "Jazz") under the iPod in an indented list format of the record/playlist in the iPod.

5. As to the applicant's arguments with respect to exemplarily Claim 8 (including Claims 27 and 35) for the prior art(s) allegedly not teaching **"a second record previously stored in less than all of the plurality of databases is displayed on the user interface using a second graphical representation,"** the examiner respectfully disagrees. A second record/playlist previously stored in less than all the plurality of databases (iTunes only) is shown in Fig. 32. The figure displays the playlist (e.g. "My Top Rated") under the iTunes source sidebar in a non-indented list format of the record/playlist in iTunes. It should also be noted that the "My Top Rated" playlist is not under the iPod's list of playlists.

6. As to the applicant's arguments with respect to exemplarily Claim 8 (including Claims 27 and 35) for the prior art(s) allegedly not teaching **"wherein the first graphical representation is different from the second graphical representation,"** the examiner respectfully disagrees. The first graphical representation is different from

the second graphical representation in that the first graphical representation is indented while the second one is not. This makes it clear on the user interface which playlists are in the iTunes and which ones are in iTunes and the iPod (the iPod serving as a back up device backing up database(s)).

7. The other claims argued merely because of a dependency on a previously argued claim(s) in the arguments presented to the examiner, filed November 20<sup>th</sup>, 2008, are moot in view of the examiner's interpretation of the claims and art and are still considered rejected based on their respective rejections from at least a prior Office action (part(s) of recited again below).

### ***Response to Amendment***

#### ***Claim Objections***

8. In light of the applicant's respective arguments or respective amendments, the previous claim objections to the claims have been withdrawn.

#### ***Claim Rejections - 35 USC § 112***

9. In light of the applicant's respective arguments or respective amendments, the previous 35 USC § 112 rejections to the claims have been withdrawn.

#### ***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 8, 10, 11, 13, 14, 16, 17, 19, 27, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by "Mac OS X 10.2: Visual QuickStart Guide" (Langer).

**Claim 8** can be mapped to Langer as follows: "A system for synchronizing records in a plurality of databases, [Langer, pgs. 9-12] comprising:

- a computer including a user interface; [Langer, pgs. 9-12] and
- a plurality of databases coupled to the user interface; [Langer, pgs. 9-12]
- wherein the user interface displays a visual representation of records previously stored in the plurality of databases [Langer, pgs. 9-12] such that:
- a first record previously stored in all of the plurality of databases is displayed on the user interface using a first graphical representation for the first record; [Langer, pgs. 9-12] and
- a second record previously stored in less than all of the plurality of databases is displayed on the user interface using a second graphical representation for the second record; [Langer, pgs. 9-12]
- and wherein the first graphical representation is different from the second graphical representation" [Langer, pgs. 9-12].

**Claim 10** can be mapped to Langer as follows: "The system of claim 8 further comprising a communications link to each of the plurality of databases and wherein the

user interface is adapted to retrieve a record from each of the plurality of databases through its corresponding communications link" [Langer, pgs. 9-12].

**Claim 11** can be mapped to Langer as follows: "The system of claim 8 wherein a record is copied from a first database to a second database via interactive manipulation of a visual representation of the record on the user interface" [Langer, pgs. 9-12].

**Claim 14** can be mapped to Langer as follows: "The system of claim 8 wherein at least one of the plurality of databases is stored on a portable device" [Langer, pgs. 9-12].

**Claim 16** can be mapped to Langer as follows: "The system of claim 8 wherein at least one of the plurality of databases is stored on a personal computer" [Langer, pgs. 9-12].

**Claim 17** can be mapped to Langer as follows: "The system of claim 10 wherein at least one communications link includes an API" [Langer, pgs. 9-12].

**Claim 20** can be mapped to Langer as follows: "The system of Claim 10 wherein at least one communications link includes a serial connection and device specific APIs" [Langer, pgs. 9-12].

**Claim 27** can be mapped to Langer as follows: "A computer program embodied on a computer-readable medium, [Langer, pgs. 9-12] comprising:

- an interface to each of a plurality of databases adapted to obtain a subset of records previously stored in each of the plurality of databases, the subset of records spanning a date range; [Langer, pgs. 9-12] and

- a user interface adapted to display a visual representation of the subset of records, [Langer, pgs. 9-12] such that:
  - a first record previously stored in all of the plurality of databases is displayed on the user interface using a first graphical representation for the first record; [Langer, pgs. 9-12]
  - a second record previously stored in less than all of the plurality of databases is displayed on the user interface using a second graphical representation for the second record; [Langer, pgs. 9-12]
  - and wherein the first graphical representation is different from the second graphical representation" [Langer, pgs. 9-12].

**Claim 35** encompasses substantially the same scope of the invention as that of Claim 1, in addition to a method and some steps for performing the system of Claim 1. Therefore, Claim 35 is rejected for the same reasons as stated above with respect to Claim 1.

**Claim 36** can be mapped to Langer as follows: "The system of Claim 8, wherein the first and second graphical representations are geometric shapes" [Langer, pgs. 9-12].

**Claim 37** can be mapped to Langer as follows: "The system of Claim 8, wherein the first and second graphical representations are colors" [Langer, pgs. 9-12].

**Claim 38** can be mapped to Langer as follows: "The system of Claim 8, wherein the user interface displays a conflict between a third record previously stored in one of



the plurality of databases and a fourth record previously stored in a second of the plurality of databases in a third graphical representation" [Langer, pgs. 9-12].

**Claim 39** can be mapped to Langer as follows: "The system of Claim 38, wherein the third graphical representation is an overlapping of respective representations of the third record and the fourth record" [Langer, pgs. 9-12].

**Claims 40-43** encompass substantially the same scope of the invention as that of Claims 36-39, respectfully, in addition to a medium and some program for performing the system of Claims 36-39, respectfully. Therefore, Claims 40-43 are rejected for the same reasons as stated above with respect to Claims 36-39, respectfully.

**Claims 44-47** encompass substantially the same scope of the invention as that of Claims 36-39, respectfully, in addition to a method and some steps for performing the system of Claims 36-39, respectfully. Therefore, Claims 44-47 are rejected for the same reasons as stated above with respect to Claims 36-39, respectfully.

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Mac OS X 10.2: Visual QuickStart Guide" (Langer) in view of U.S. Patent Application Publication No. 2003/0069874 (Hertzog et al.).

For **Claim 13**, Langer teaches: "The system of claim 8."

Langer discloses the above limitation but does not expressly teach:

- "...further comprising a temporary database table identifying the first record found in all of the plurality of databases."

With respect to Claim 13, an analogous art, Hertzog, teaches:

- "...further comprising a temporary database table identifying the first record found in all of the plurality of databases" [Hertzog, paragraph [0107]].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Hertzog and Langer before him/her to combine Hertzog with Langer because both inventions are directed towards synchronizing data.

Hertzog's invention would have been expected to successfully work well with Langer's invention because both inventions use computers synchronizing data. Langer discloses the iTunes jukebox software comprising synchronizing the data with a

portable MP3 player. However, Langer does not expressly disclose a temporary table identifying the first record found in all of the plurality of databases. Hertzog discloses a method and system to automate the updating of personal information within a personal information management application and to synchronize such updated personal information management applications (title) comprising a history of updates done.

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Hertzog and Langer before him/her to take the history of updates done from Hertzog and install it into the invention of Langer, thereby offering the obvious advantage of displaying this information to the user so that the user is more informed (Hertzog, paragraph [0107]).

15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over “Mac OS X 10.2: Visual QuickStart Guide” (Langer) in view of U.S. Patent No. 5,666,553 (Crozier).

For **Claim 15**, Langer teaches: “The system of claim 8.”

Langer discloses the above limitation but does not expressly teach:

- “...wherein at least two of the plurality of databases have different record structures.”

With respect to Claim 15, an analogous art, Crozier, teaches:

- “...wherein at least two of the plurality of databases have different record structures” [Crozier, col. 5, lines 1-18].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Crozier and Langer before him/her to combine Crozier with Langer because both inventions are directed towards synchronizing data.

Crozier's invention would have been expected to successfully work well with Langer's invention because both inventions use databases to aid or databases for providing data for synchronization. Langer discloses a computer jukebox program comprising a user interface for synchronizing databases. However, Langer does not expressly disclose that the databases have different record structures. Crozier discloses a method for mapping, translating, and dynamically reconciling data between disparate computer platforms comprising databases having different record structures.

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of Crozier and Langer before him/her to take the databases having different record structures from Crozier and install it into the invention of Langer, thereby offering the obvious advantage of still being able to synchronize data even if the structure of the data is different making reconciling/synchronizing more easier (Abstract of Crozier) (for instance different versions of the program, or device).

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over "Mac OS X 10.2: Visual QuickStart Guide" (Langer) in view of "iTunes Remote Shared Library" (iLounge).

For **Claim 19**, Langer teaches: "The system of claim 10."

Langer discloses the above limitation but does not expressly teach:

- "...wherein at least one communications link includes the Internet."

With respect to Claim 19, an analogous art, iLounge, teaches:

- "...wherein at least one communications link includes the Internet" [iLounge, p. 1].

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of iLounge and Langer before him/her to combine iLounge with Langer because both inventions are directed towards the iTunes jukebox software.

iLounge's invention would have been expected to successfully work well with Langer's invention because both inventions use iTunes. Langer discloses a book comprising using Mac OS X and iTunes. However, Langer does not expressly disclose that the iTunes library can be shared on the internet. iLounge discloses a Java utility/program comprising the ability to share the iTunes library on the internet.

It would have been obvious to one of ordinary skill in the art at the time of invention having the teachings of iLounge and Langer before him/her to take the java program from iLounge and install it into the invention of Langer, thereby offering the obvious advantage of being able to access the iTunes library from anywhere in the world where an internet connection can be obtained.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Conclusion**

18. Any prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is advised that, although not used in the rejections above, prior art cited on any PTO-892 form and not relied upon is considered materially relevant to the applicant's claimed invention and/or portions of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent S. Stace whose telephone number is 571-272-8372 and fax number is 571-273-8372. The examiner can normally be reached on M-F 9am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu M. Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/BRENT STACE/  
Examiner, Art Unit 2161

/Apu M Mofiz/  
Supervisory Patent Examiner, Art Unit 2161